

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

3:11-cr-179

UNITED STATES OF AMERICA

vs.

FRAZIER DERRING

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ORDER

THIS MATTER is before the Court upon motion of the defendant to suppress a firearm police found in the trunk of a rental car (Doc. No. 12) and the government's response (Doc. No. 13).¹

According to the defendant's motion, he "sub-rented" the car from its authorized driver. (Doc. No. 12: Motion at 1). However, he has not alleged that he was listed as an authorized driver on the rental agreement with the car's owner, Hertz Car Rental. Before a defendant may contest a search, he must establish a reasonable expectation of privacy in the place searched. Rakas v. Illinois, 439 U.S. 128, 143 (1978). It is well settled in the Fourth Circuit that an unauthorized rental car driver has no legitimate expectation of privacy in the vehicle. United States v. Wellons, 32 F.3d 117, 119 (4th Cir. 1994).

Here, the defendant has alleged no facts that would establish a legitimate expectation of privacy in the vehicle. United States v. Mincey, 321 F. App'x 233, 239-40 (4th Cir. 2008) (unpublished decision) (rejecting similar claim where defendant had permission of authorized lessee, but not rental car company). Thus, he is not entitled to a hearing on his motion to

¹ The defendant has not challenged the stop of the car, which was based on an alleged speeding violation (Doc. No. 13: Response at 1), but only its subsequent search (Doc. No. 12: Motion at 4 (claiming firearm was found during improper search)).

suppress. United States v. Espinoza-Seanez, 862 F.2d 526, 536 (5th Cir. 1989) (to warrant a hearing, defendant must allege facts that, if true, would entitle him to relief) (cited in United States v. Smith, 927 F.2d 598, 1991 WL 29043, at *3 (4th Cir. 1991) (unpublished decision)).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, and to the United States Attorney.

Signed: November 8, 2011

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

